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from taxation granted by the state to the original corporation, its successors and assigns.

2. Under Const. 1851, art. 10, sec. 1 [Ann. Code 1904, p. cclxii], providing that taxation shall be equal and uniform throughout the commonwealth, and all property shall be taxed in proportion to its value, etc., a corporation created under Code 1887, sec. 1234 [Anno. Code 1904, p. 623], on the purchase of the property and franchise of another corporation on foreclosure of a deed of trust pursuant to section 1233 [page 623] cannot claim the right to immunity from taxation granted to the original corporation prior to the adoption of such constitutional provision.

RICHMOND & P. ELECTRIC RY. CO. v. SEABOARD AIR LINE RY.

January 12, 1905.

[49 S. E. 512.]

EMINENT DOMAIN—RAILROADS—RIGHT OF WAY—CONDEMNATION—CONTINU-
ANCE—DAMAGES—ELEMENTS.

1. Code 1887, secs. 1075, 1076, 1079, provide for the condemnation of a railroad right of way; and section 1081 declares that no order or injunction shall be awarded to stay the prosecution of the work, unless the company is transcending its authority, or such injunction is required to prevent injury which cannot be adequately compensated in damages; and section 1084 provides for a proceeding to ascertain what persons are entitled to the fund awarded for land taken, and in what proportions. *Held*, that under such sections, alleged owners of land sought to be condemned for a railroad right of way were not entitled to have the proceedings stayed pending a suit is equity between such alleged owners, involving the title to the land.

2. Under Code 1887, sec. 1079, providing that the report of commissioners in railroad condemnation proceedings shall be confirmed, unless good cause is shown to the contrary, and that the amount awarded may be paid into court, or to the persons entitled thereto, the amount awarded to landowners by such report is to be treated as *prima facie* correct.

3. In a proceeding to condemn land for a railroad right of way, the fact that the land was available for a public park, and that the owners intended to improve the same for that purpose in the future, and use it as a source of revenue in connection with an electric railway, was too speculative, remote, and conjectural to be considered as an element of damage.